



# LEGISLATIVE FINANCE COMMITTEE

## 59<sup>TH</sup> Montana Legislature

Room 110 Capitol Building \* P.O. Box 201711 \* Helena, MT 59620-1711 \* (406) 444-2986 \* FAX (406) 444-3036

### SENATE MEMBERS

JOHN COBB, CHAIRMAN  
KEITH BALES  
MIKE COONEY  
RICK LAIBLE  
DON RYAN  
CAROL WILLIAMS

### HOUSE MEMBERS

ROSALIE BUZZAS, VICE CHAIRMAN  
GARY BRANAE  
TIM CALLAHAN  
RAY HAWK  
RICK RIPLEY  
JOHN SINRUD

## MINUTES

November 28, 2006  
Room 303, State Capitol  
Helena, Montana

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Fiscal Division. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.**

### ROLL CALL

Sen. Keith Bales  
Sen. John Cobb  
Sen. Mike Cooney  
Sen. Rick Laible  
Sen. Don Ryan  
Sen. Carol Williams  
Rep. Gary Branae  
Rep. Rosalie Buzzas  
Rep. Ray Hawk  
Rep. Rick Ripley  
Clayton Schenck, Legislative Fiscal Analyst  
Diane McDuffie, Committee Secretary

### ABSENT

Rep. John Sinrud  
Rep. Tim Callahan

### ATTACHMENTS

Visitor's list #1  
Roll Call

**CALL TO ORDER** (Tape 1A-001)

**Senator John Cobb**, Chairman, called the 199<sup>th</sup> meeting of the Legislative Finance Committee (LFC) to order at 8:00 a.m. on Tuesday, November 28, 2006. The meeting was held in Hearing Room 303 of the State Capitol, Helena, Montana.

**1. Approval of Minutes for October 12 & 13, 2006 Meeting** (Tape 1A-014)

**MOTON: Representative Buzzas** moved the minutes of the October 12 & 13, 2006 meeting be approved as submitted. **VOTE:** The motion carried unanimously.

**Legislative Fiscal Analyst Announcements**

Clayton Schenck, LFA, presented a longevity pin to Cathy Duncan, Fiscal Analyst II, for 5 years of service working for the Legislative Fiscal Division.

**2. 2007 Biennium Budget Spending “Pressure Points”** (Tape 1A-030)

Taryn Purdy, Principal Analyst, LFD presented a report on the 2007 Biennium Budget Spending “Pressure Points” (Exhibit 1) The purpose of the report is to alert the LFC on areas that have the potential to require a supplemental appropriation by the 2007 Legislature. Several agencies received authority to move funds from FY 2007 to FY 2006, and it is anticipated that supplemental appropriations will be requested to backfill these amounts, and address ongoing appropriation shortfalls. Currently, staff estimate supplemental appropriations of about \$70 million.

**3. State General Fund Revenue Outlook** (Tape 1A-048)

Terry Johnson, Principal Analyst, LFD provided power point summary of the State General Fund. (Exhibit 2) Mr. Johnson discussed the general fund outlook for both the 2007 and 2009 biennium budget, changes in the fund balance and revenues, and executive budget proposals.

Mr. Johnson reported that based on HJ 2 revenue estimates, current estimate is about \$514 million. That also includes the supplementals as proposed in the executive budget, an improvement of about \$286 million dollars for the biennium. The reason for the change is higher revenues, higher disbursements, and other adjustments. Mr. Johnson responded to questions from committee members.

## *Interim Studies*

### **8. General Fund Status Sheet – 2007 Session: Issues and Process** (Tape 1A-366)

Terry Johnson, Principal Fiscal Analyst, LFD provided background information and an example of the general fund status sheet (GFSS) from the 2005 session with a list of proposed issues for consideration by the Legislative Finance Management Committee. (Exhibit 3) The primary purpose of the status sheet is to provide a financial snapshot of the general fund account. LFD staff prepares this document on a weekly basis during the legislative session in order to provide the legislature with a current projection of the financial status of the general fund account. The status sheet provides a starting point before any legislative action has been taken, it shows any proposed legislation that has general fund impact, and includes all general fund bills that could change the level of spending for the state agencies.

### **4. Pension Plans Unfunded Liability: Update** (Tape 1A-590)

Jon Moe, Fiscal Specialist, LFD presented the following documents: 1) LAWS Bill Search Results Page; 2) Executive Proposal for Pension Plan Funding; 3) Montana PERA Actuarial Impact Statements; and 4) Pension Fund Fiscal Note. (Exhibits 4, 4a, 4b and 4c) He discussed the status of the bill draft requests and explained that the SAVA committee is meeting today to discuss some of the bill drafts. He also explained the executive proposal for pension plan funding includes \$100 million infusion into the Teachers' Retirement System, phasing in higher employer contribution rates for TRS, closing loopholes that allow for "gaming" the system, and provide a guaranteed annual benefit adjustment for new hires. Mr. Moe said that he intends to prepare a summary of all pension bills and provide information to the legislature regarding status of legislation during the session.

David Senn, Executive Director, Teacher's Retirement System, commented that they are looking at proposed legislation in the Governor's budget at the SAVA meeting today.

### **5. LFC Bill Drafts Approval/Sponsor** (Tape 1B-096)

#### *Wildfire Funding Options*

Barbara Smith, Fiscal Analyst, LFD reported that at the October meeting the committee requested staff draft legislation addressing wildfire funding options. The legislation needs a

sponsor and the committee needs to address refilling the level of the state special revenue account with a statutory backfill. **Rep. Hawk** said he will sponsor the bill.

*Revise Resource Indemnity Trust Funding Laws: Assign Sponsor*

Ms. Smith also addressed the Resource Indemnity bill approved at the October meeting. She explained that the bill was updated for the clarification of an error and to cleanup additional language. This bill also needs a sponsor. **Representative Ripley** will sponsor this bill.

*Amend 53-6-1201, MCA, drawdown of accounts*

Lois Steinbeck, Fiscal Analyst, LFD reported at the October meeting, the committee authorized this bill draft. (Exhibit 5) This bill draft prevents the health and medicaid initiatives account from being drawn down in excess of legislative anticipation.

**MOTION: Senator Cooney** moved to adopt LC614 as a committee bill and it be sponsored by **Senator Cobb**. **VOTE:** Motion carried.

*Long-Range Building (LC0184) Correction and sponsor*

Cathy Duncan explained that LC0184 approved at the October meeting, had an erroneous and unnecessary appropriation for \$30 million. The appropriation was mistakenly added to the bill as a result of a miscommunication between fiscal and legal staff. (Exhibit 6)

**MOTION: Senator Laible** moved to amend the draft to remove the appropriation. **VOTE:** Motion passed.

*Revise and clarify LFD/OBPP access to tax data (LC0043)*

Clayton Schenck, LFA explained that this bill amends the laws governing access to tax information; providing for access to all tax information by the LFD and the OBPP. This bill has been approved by the Revenue and Transportation committee and they invited the LFC to cosponsor the bill. (Exhibit 7)

In order to provide the committee time to review the bill draft, the committee delayed action at this time.

*Budget Stabilization Account (Tape 4B-014)*

Jon Moe, LFD presented LC 0562, the Budget Stabilization Account bill draft. (Exhibit 8) This bill provides for creating a budget stabilization account; providing that the ending general fund balance in excess of a statutory amount is transferred to the budget stabilization account; providing limits on the amount that can be maintained in the account; providing for the use of the account to offset reductions in spending; clarifying the applicability of the reduction in spending law to base aid for schools; amending sections 17-7-140 and 20-9-351, MCA; and providing and immediate effective date and an applicability date.

**MOTION: Senator Laible** moved to approve LC 0562 as a committee bill. **VOTE:** Motion passed with Senator Ryan voting no. **Senator Laible** will sponsor the bill.

**15. Proposal to establish funding for retirement payouts, Legislative Branch** (Tape 2A-197)

Clayton Schenck, LFA, provided the Legislative Branch Retirement Termination Pay Liability Proposed Bill Draft Options. (Exhibit 9) Mr. Schenck explained that at the October meeting, the LFC directed the LFA to work with the other branch staff directors to prepare a bill draft proposal that would establish a reserve fund for retirement payouts, and to provide for a source of funds that would be ongoing. The unfunded liability for retirement termination payouts for legislative staff retirements for the next several biennia is estimated to be \$400,000 per biennium. His report included options for LFC consideration, a recommendation that an interim study of the LFC be initiated in the 2009 biennium interim, and the impact on existing computer projects reserve fund.

**MOTION: Senator Bales** moved to approve Option 1:

- 1) **Establish a legislative branch retirement termination reserve account in the state special revenue fund.**
- 2) **Provide for money to be deposited into the account by direct allocation or as provided in 17-7-304 (disposal of unexpended legislative branch appropriations).**
  - a) **Provide for one-time appropriation of \$300,000 general fund to the account**
  - b) **Provide for amendment of 17-7-304 to allow that any portion of the 30 % of the unexpended and unencumbered money that was appropriated to a legislative branch entity may be deposited in the retirement reserve, at the beginning of each**

biennium, up to a cap of \$400,000. Any remaining balance above the amount necessary to reach the cap shall be transferred to the legislative branch computer projects reserve fund.

i) Effective date for this section shall be July 1, 2007.

- 3) Money in the account is statutorily appropriated to the Legislative Service Division to be used only for staff retirement termination pay in the branch.
- 4) Funds shall be administered by the branch division directors for eligible termination pay expenditures.
- 5) Investment earnings on the account will be deposited in the account.

**VOTE:** Motion passed. **Representative Branae** will sponsor the bill.

Director Bucks, Department of Revenue provided a Summary of Legislation on Exchanging Taxpayer Information from the Department of Revenue (DOR) to the Legislative Fiscal Analyst (LFD) and Office of Budget and Program Planning (OBPP). (Exhibit 10) Mr. Bucks stated that there is no issue about continuing the current practice of providing the individual tax data without the names and addresses. Other issues have arisen about federal tax information but that is not involved in the legislation. The DOR would maintain current law that allows the exchange of individual income tax return data with the LFD and OBPP, without names, addresses and social security numbers but with a state accounting record identifier that allows for multi-year tracking to improve revenue estimating. The DOR also authorizes the exchange of taxpayer return data for privately held business entities with the LFD and OBPP without names, addresses and taxpayer identification numbers but with a state accounting record identifier.

Mr. Heiman, Attorney, LSD explained that there is a compelling state interest. The states budget system depends on information collected to determine tax policy as well as budget policy. The legislature is the branch that decides tax policy.

#### **6. Implementing a Companion Bill to HB 2** (Tape 2A-532)

Taryn Purdy, Principal Fiscal Analyst, LFD presented a report on Implementing a Companion Bill to HB 2. (Exhibit 11) Ms. Purdy explained that at the October meeting, the LFC heard reports that discussed a proposed Montana University System accountability project using

companion bills to HB 2 to include language or other actions not appropriate for inclusion in HB 2 because of constitutional limitations. This report provides follow-up regarding issues the legislature should be aware of and address if the concept of a companion bill is used to express legislative expectations/or requirements, and recommendations for LFC consideration. Ms. Purdy responded to questions from LFC members.

**MOTION: Senator Cobb** moved that LFD staff provide instructions to the subcommittees to consider companion bills and how to do it correctly. **VOTE:** Motion passed.

**9. Update on the Montana State Fund 2007 Budget Analysis** (Tape 2B-182)

Kris Wilkinson, Fiscal Analyst, LFD introduced Lanny Hubbard, President of the Montana State Fund, and Mark Barry, Vice President of Corporate Support and Finance.

Ms. Wilkinson explained at the October meeting, the LFC requested the Montana State Fund (MSF) respond to issues included in the MSF 2007 Budget Analysis. Ms. Wilkinson presented a power point summary of the Montana State Fund 2007 Budget Analysis (Exhibit 12) and a written response from Lanny Hubbard. (Exhibit 12a) Mr. Hubbard and Ms. Wilkinson responded to questions from the LFC members.

**7. Global Fiscal Issue: LFC Recommendations to the 2007 Legislature:** (Tape 2B-595)

Jon Moe, Fiscal Specialist, LFD presented the Global Fiscal Issues: LFC Recommendations to the 2007 Legislature (Exhibit 13) and a power point summary. (13a) The purpose of this report is to provide recommendations for a procedural framework during the legislative session for making certain appropriations decisions on global budget issues common to all subcommittees that, for purposes of equity and clarity, should be universally applied to all agencies. Mr. Moe explained each of the following issues and the LFC discussed them and took action as stated below.

1. Starting point for subcommittees deliberations

**MOTION: Senator Cobb** moved to approve the recommendation for item 1. **Direct the subcommittees to adopt the base budget and the statewide present law**

**adjustments as the starting point of budget deliberations for each agency. VOTE:** Motion passed with Senator Bales and Representatives Sinrud and Ripley voting no.

2. Determining overarching personnel policies

**MOTION: Senator Cobb** moved to approve the recommendation for item 2. **The subcommittees should be directed to work with their respective subcommittee staff to determine the reasons for these occurrences and variations, and allow for coordination between subcommittees if an overarching policy should be addressed.**

**VOTE:** Motion carried unanimously of those present.

3. FTE Changes

**MOTION: Representative Buzzas** moved to approve Option 3a. **Specify the actual FTE, and allow the legislative budgeting system to calculate the total addition or reduction in funding for that specific FTE. VOTE:** Motion carried unanimously.

4. Vacancy Savings

**MOTION: Senator Ryan** moved to approve Option 4b. **There will be no recommendation from the full committees on personal services reductions. Subcommittees may adopt vacancy savings levels on a case-by-case basis. ROLL CALL VOTE (Exhibit 13b):** Motion failed.

**MOTION: Senator Bales** moved to adopt Option 4a. **The full appropriations committees shall adopt a global recommended level of personal services reductions (vacancy savings). Subcommittees will be requested to adopt the recommended level as part of their budget recommendation. VOTE:** Motion passed with Senators Ryan and Cobb voting no.

5. Fixed Costs

**MOTION: Senator Cobb** moved to approve the recommendation. **Direct Subcommittees to consistently apply fixed costs in agency budgets as included by the executive budget request. Adjustments to fixed cost rates shall be determined by the subcommittee examining the service provider and shall be globally adjusted on a consistent basis. VOTE:** Motion carried unanimously of those present.



6. Inflation/Deflation

**MOTION: Senator Cobb** moved to approve the recommendation. **If the full committee wishes to vary from the executive budget proposal inflation/deflation factors, it should establish approved inflation/deflation rates (if any) by individual object of expenditure and direct subcommittees to apply these rates to all budget adjustment recommendations.** **VOTE:** Motion carried unanimously of those present.

7. Proposals Requiring Legislation

**MOTION: Senator Cobb** moved to approve Option 7c. **Make no recommendations or adjustments to HB 2 until required legislation passes.** **VOTE:** Motion carried unanimously of those present.

8. Disposition of “Negative” New Proposals

**MOTION: Senator Cobb** moved to approve the recommendation. **Appropriations committee leadership shall direct the appropriations subcommittees to include negative new proposals in the present law line item in the budget, as opposed to a separate negative line item appropriation.** **VOTE:** Motion carried unanimously of those present.

9. HB 2 Companion Bill(s)

No action needed on this item.

10. Proposal to Adopt Subcommittee Presentation Templates

**MOTION: Senator Cobb** moved to approve the recommendation. **Appropriations committee leadership shall direct the appropriations subcommittees to request presenting agencies to structure their respective presentations to conform to the approved and published template for such presentations.** **VOTE:** Motion carried unanimously of those present.

11. Integrate “Goals and Objectives” into the Appropriations Process

**MOTION: Senator Cobb** moved to approve recommendation. **a) Appropriations committee leadership shall direct the appropriations subcommittees to:**

- Set aside time during the committee time to discuss goals, objectives and outcomes for the 2007 biennium and discuss goals and objectives of the 2009 biennium;
  - Relate goals and objectives to the budget request;
  - Utilize discussion results to adjust, condition or disapprove appropriations in relation to programs goals and objectives through HB 2 (and one or more companion bills if companion bill concept is pursued) ; and
- b) Appropriations committee leadership shall request the House Appropriation Committee chair and the Senate Finance and Claims Committee chair to introduce goals and objectives as part of the HB 2 deliberations process prior to floor debate by:
- Opening deliberations on each agency with the outcome of major initiatives from the 2007 biennium; and
  - Providing a synopsis of 2009 biennium goals and objectives used to establish appropriations.

**VOTE:** Motion carried unanimously of those present.

**16. Committee Business** (Tape 3B-095)

Clayton Schenck, LFA presented the items under committee business. (Exhibit 14) He discussed the status of the committee Work Plan and the major projects completed. Mr. Schenck also presented the LFD cost report for fiscal 2007. There were no items that required any action by the committee.

**Senator Laible** provided a copy of the Governor's Rainy Day bill. (Exhibit 15) **Rep. Buzzas** explained the difference between this bill and the committee bill is the transfer date.

Amy Sassano, OPBB, said the intent of the additional language is to provide for a transfer in this biennium. The remainder of the bill goes into affect beyond the 2009 biennium so those transfers would occur June 30<sup>th</sup>.

**MOTION:** **Senator Laible** moved to accept the bill draft submitted by the Governor's office as a committee bill with the flexibility to make technical changes as needed. **VOTE:** Motion passed unanimously of those present.

**Committee Action Required** (Tape 3B; 319)

*Revise and clarify LFD/OBPP access to tax data (LC0043)*

**MOTION:** **Senator Cobb** moved the Legislative Finance Committee co-sponsor LC0043.

**ROLL CALL VOTE:** Motion passed with 8 members voting yes and 4 members voting no. (Exhibit 16)

**11. DNRC Supplemental – Diversion of Trust Funds** (Tape 3B; 357)

Barbara Smith, LFD presented a memo on DNRC Supplemental Appropriation – Diversions of Trust Revenues. (Exhibit 17) Ms. Smith explained that the executive is proposing to reimburse \$560,000 of trust revenues through a supplemental appropriation for FY 2007. The issue for the legislature is to determine the amount needed to make the trusts whole and the process in which it should be completed. Another issue is to determine how the repayment of past diversions should occur.

**MOTION:** **Senator Laible** moved to request legislation to utilize general fund transfers to the specific trusts for repayment of the past diversions and interest rather than a supplemental appropriation. **ROLL CALL VOTE:** Motion passed unanimously. (Exhibit 17a)

**12. Degree of Appropriation Flexibility – Biennial Appropriations** (Tape 3B-726)

Lois Steinbeck, Fiscal Analyst, LFD present a memo on Degree of Appropriation Flexibility – Biennial Appropriations. (Exhibit 18) Ms. Steinbeck explained that the legislature enacted several statutes that allow the restriction of appropriations and conversely allow the ability to reestablish a portion of a reverted appropriation for expenditure in the following fiscal years. Biennial appropriations are another tool that the legislature can use to provide flexibility in budget management. However, unrestricted biennial appropriations can provide a way to bypass the 30 percent carry forward limit entirely and retain funds that would otherwise revert. Biennial appropriations also can be used to transfer benefits and grants appropriation forward from the first year of the biennium to the second year of the biennium, which was expressly prohibited in the statute allowing a 30 percent carry forward. This issue is raised for legislative consideration because biennial appropriations can allow agencies to bypass the 30 percent carry forward threshold in statute and transfer forward: 1) more than 30 percent of an appropriation that would

otherwise revert; and 2) authority equal to costs transferred from biennial appropriations to annual appropriations for benefits and grants, which otherwise would have been reverted. The Legislative Finance Committee may wish to consider whether to address this issue.

**MOTION:** Rep. Buzzas moved to approve Option 2. **Direct legislative staff to request whether the legislature wishes to restrict a biennial appropriation at the time the legislature establishes the appropriation. VOTE:** Motion passed.

**Senate 495 – Information** (Tape 4A-164)

Roger Lloyd, Fiscal Analyst, LFD provided a memo on Senate Bill 495- Information. (Exhibit 19) Mr. Lloyd explained that at the March meeting, the committee considered the effects of three loan repayment options related to the sale of mineral royalties from the common school trust as authorized in SB 945. The committee requested that the Department of Natural Resources and Conservation (DNRC) structure the principal payments so that the net distributions to the guarantee account decrease, thus lessening the general fund budgetary impact in the year following the end of SB 495. Additional analysis by DNRC staff, discovered that general fund savings could be achieved by paying the loan off as soon as possible, contrary to what LFD staff had told the LFC and subcommittee. LFD staff agrees with the DNRC analysis. Because of the new information, the committee may wish to re-consider their action on this matter.

**MOTION:** Senator Ryan moved to re-consider previous action that DNRC structure the principal payments. **VOTE:** Motion passed.

**10. Information Technology Oversight; Update from October Meeting** ( Tape 4A-211)

Dick Clark, CIO, Department of Administration provided a handout on Information Technology Services Division Services and Their Cost Recovery Method and Priority. (Exhibit 20) The committee requested this information at the October meeting.

### **13. “Bulldog” Reports** (Tape 4A-222)

#### *Montana State Hospital: Follow-up re: HIFA Waiver*

**Rep. Buzzas** reported that the HIFA waiver was submitted this fall. Joyce DeCunzo, DPHHS is continuing to follow-up with the Federal government but no new information has been received at this time.

Lois Steinbeck, LFD reported that the HIFA waiver has not yet received approval and DPHHS has received within 65 written questions from CMS. The department has between 60 and 90 days to respond and CMS can respond again. The major concern now seems to be the part of the waiver that expands a CHIP look-alike benefit.

Ms. Steinbeck provided a brief report on the Health and Medicaid Initiatives Account Fund Balance. (Exhibit 21) At the October meeting, the committee requested that staff prepare a report on the account. The table on page 2 shows the projected fund balance in the account, estimating a \$13 million ending fund balance at the end of FY 2009. The annual level of expenditures established in the executive budget exceeds the annual income by almost \$10.0 million. Two programs are projected to underspend FY 2007 appropriations – Insure Montana and Big Sky Rx. The \$13.4 million ending fund balance and FY 2010 revenues will be sufficient to continue funding at the level included in the executive budget. However, the same will not be true in FY 2011.

#### *Corrections Long Range Budget Solutions*

Pat Gervais, Fiscal Analyst, LFD reported that the Corrections Advisory Council was scheduled to meet November 9<sup>th</sup> and take action on their recommendations. The “bulldog” group was waiting to see those recommendations before reporting to the LFC. The Corrections Advisory Council meeting has been rescheduled for November 30<sup>th</sup> so no action has been taken since the last LFC meeting.

Ms. Gervais provided a handout from the Office of The State Public Defender re: Response to Your Email Dated 11/01/06 – Knowledge of FY 2006 Deficit. (Exhibit 22) She explained that this is in response to the request from the committee regarding the sequence of events related to

the supplemental request – when it was known that the plan to pay for FY 2006 expenditures in FY 2007 was not acceptable.

### **Secure Treatment and Examination Program** (4A-359)

Lois Steinbeck, LFD provided a handout on the Secure Treatment and Examination Program (STEP). (Exhibit 23) Ms. Steinbeck explained that STEP is the creation of 120 bed facility for forensic patients with mental health needs. The facility would house 60 corrections inmates and 60 patients from the Montana State Hospital. The program would be up and running in the middle of FY 2009, annualize costs are expected to be \$4.5 million per year from the general fund and an additional \$6.0 million in the Long-Range Building Program to renovate the Dr. Xanthopolis building.

### **21. Other Reports** (Tape 4A-425)

Taryn Purdy, LFD presented the Operating Plan Changes and Program Transfers. (Exhibit 24) Ms. Purdy explained that the Office of Budget and Program Planning (OBPP) proposed 3 operating plan changes that meet statutory criteria. LFD staff has reviewed these and raise no concerns.

#### *Required Reports*

This report (Exhibit 25) was included in the LFC notebook but was not formally presented.

#### *Budget Amendments*

Taryn Purdy, LFD presented the memo on Budget Amendments. (Exhibit ) Each amendment, along with a brief explanation, is summarized in the table beginning on page 2. Staff has reviewed the amendments and raises no concerns with any of the amendments meeting statutory criteria.

**Next LFC Meeting**

There is no meeting scheduled. The organizational meeting is scheduled for June 15, 2007.

**Adjournment**

Meeting adjourned at 2:00 p.m.

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Senator Cobb, Chairman

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Diane McDuffie, Committee Secretary

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